

1 GIBSON, DUNN & CRUTCHER LLP
2 HEATHER L. RICHARDSON, SBN 246517
3 HRichardson@gibsondunn.com
4 LAUREN M. BLAS, SBN 296823
5 LBlas@gibsondunn.com
6 ANGELA REID, SBN 323057
7 AREid@gibsondunn.com
8 333 South Grand Avenue
9 Los Angeles, California 90071
10 Telephone: 213.229.7000
11 Facsimile: 213.229.7520

12 GIBSON, DUNN & CRUTCHER LLP
13 JENNAFER M. TRYCK, SBN 291088
14 JTryck@gibsondunn.com
15 MARCUS CURTIS, SBN 307726
16 MCurtis@gibsondunn.com
17 3161 Michelson Drive
18 Irvine, California 92612
19 Telephone: 949.451.3800
20 Facsimile: 949.451.4220

21 *Attorneys for Defendant*
22 *United HealthCare Services, Inc.*

23 IN THE UNITED STATES DISTRICT COURT
24 FOR THE NORTHERN DISTRICT OF CALIFORNIA
25 SAN JOSE DIVISION

26 Reyna Dempsey, individually, on behalf of
27 others similarly situated, and on behalf of the
28 general public,

29 Plaintiff,

30 v.

31 Government Employees Insurance Company,
32 United HealthCare Services, Inc., and DOES 1
33 through 10, inclusive,

34 Defendants.

35 Case No. 5:24-cv-00425-EJD-VKD

36 **DECLARATION OF LAUREN M. BLAS
37 IN SUPPORT OF DEFENDANT UNITED
38 HEALTHCARE SERVICES, INC.'S
39 MOTION TO DISMISS PLAINTIFF'S
40 FIRST AMENDED COMPLAINT**

41 **Hearing:**

42 Date: October 10, 2024
43 Time: 9:00 a.m.
44 Place: Courtroom 4

45 Hon. Edward J. Davila

DECLARATION OF LAUREN M. BLAS

I, Lauren M. Blas, declare and state as follows:

1. I provide this declaration in support of Defendant United HealthCare Services, Inc.'s Motion to Dismiss Plaintiff's First Amended Class Action Complaint. I am an attorney duly admitted to practice before this Court and all of the courts of the State of California. I am a partner at the law firm of Gibson, Dunn & Crutcher LLP, attorneys of record for Defendant United HealthCare Services, Inc. ("United") in the above-captioned action. I have personal knowledge of the facts set forth in this declaration and, if called upon, could and would testify competently thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the journal article *Definitions of Infertility and Recurrent Pregnancy Loss: A Committee Opinion*, 99 Fertility and Sterility 1 (2013), authored by the Practice Committee of the American Society for Reproductive Medicine. The article is available at [https://www.fertstert.org/article/S0015-0282\(12\)02242-X/fulltext](https://www.fertstert.org/article/S0015-0282(12)02242-X/fulltext).

3. Attached hereto as **Exhibit 2** is a true and correct copy of the journal article *Definitions of Infertility and Recurrent Pregnancy Loss: A Committee Opinion*, 113 Fertility and Sterility 3 (2020), authored by the Practice Committee of the American Society for Reproductive Medicine. The article is available at [https://www.fertstert.org/article/S0015-0282\(19\)32594-4/fulltext](https://www.fertstert.org/article/S0015-0282(19)32594-4/fulltext).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 27, 2024 in Los Angeles, California.

By: Lauren M. Blas

EXHIBIT 1

Definitions of infertility and recurrent pregnancy loss: a committee opinion

Practice Committee of the American Society for Reproductive Medicine

American Society for Reproductive Medicine, Birmingham, Alabama

This document contains the definitions of infertility and recurrent pregnancy loss as defined by the Practice Committee of the American Society for Reproductive Medicine. It replaces the document titled, "Definitions of Infertility and Recurrent Pregnancy Loss," last published in 2008, *Fertil Steril* 2008;90(Suppl 3):S60. (*Fertil Steril*® 2013;99:63. ©2013 by American Society for Reproductive Medicine.)

Discuss: You can discuss this article with its authors and with other ASRM members at <http://fertstertforum.com/goldsteinj-infertility-recurrent-pregnancy-practice-committee/>



Use your smartphone to scan this QR code and connect to the discussion forum for this article now.*

* Download a free QR code scanner by searching for "QR scanner" in your smartphone's app store or app marketplace.

Infertility is a disease,* defined by the failure to achieve a successful pregnancy after 12 months or more of appropriate, timed unprotected intercourse or therapeutic donor insemination. Earlier evaluation and treatment may be justified based on medical history and physical findings and is warranted after 6 months for women over age 35 years.

Recurrent pregnancy loss is a disease* distinct from infertility, defined by two or more failed pregnancies. When the cause is unknown, each pregnancy loss merits careful review to determine whether specific evaluation may be appropriate.

For purposes of determining when evaluation and treatment for infertility or recurrent pregnancy loss are appropriate, pregnancy is defined as a clinical pregnancy documented by ultrasonography or histopathologic examination.

Acknowledgments: This report was developed under the direction of the Practice Committee of the American Society for Reproductive Medicine as a service to its members and other practicing clinicians. Although this document reflects appropriate management of a problem encountered in the practice of reproductive medicine, it is not intended to be the only approved standard of practice or to dictate an exclusive course of treatment. Other plans of management may be appropriate, taking into account the needs of the individual patient, available resources, and institutional or clinical practice limitations. The Practice Committee and the Board of Directors of the American Society for Reproductive Medicine have approved this report.

The following members of the ASRM Practice Committee participated in the development of this document. All Committee members disclosed

commercial and financial relationships with manufacturers or distributors of goods or services used to treat patients. Members of the Committee who were found to have conflicts of interest based on the relationships disclosed did not participate in the discussion or development of this document.

Samantha Pfeifer, M.D.; Jeffrey Goldberg, M.D.; Roger Lobo, M.D.; Michael Thomas, M.D.; Eric Widra, M.D.; Mark Licht, M.D.; John Collins, M.D.; Marcelle Cedars, M.D.; Michael Vernon, Ph.D.; Owen Davis, M.D.; Clarisa Gracia, M.D., M.S.C.E.; William Catherino, M.D., Ph.D.; Kim Thornton, M.D.; Robert Rebar, M.D.; Andrew La Barbera, Ph.D.

REFERENCE

1. Dorland's Illustrated Medical Dictionary. 29th Edition. Philadelphia: Saunders; 2000.

* Disease is "any deviation from or interruption of the normal structure or function of any part, organ, or system of the body as manifested by characteristic symptoms and signs; the etiology, pathology, and prognosis may be known or unknown" (1).

Received September 13, 2012; accepted September 17, 2012; published online October 22, 2012.
No reprints will be available.

Correspondence: Practice Committee, American Society for Reproductive Medicine, 1209 Montgomery Hwy., Birmingham, AL 35216 (E-mail: ASRM@asrm.org).

EXHIBIT 2

Definitions of infertility and recurrent pregnancy loss: a committee opinion

Practice Committee of the American Society for Reproductive Medicine

American Society for Reproductive Medicine, Birmingham, Alabama

This document contains the definitions of infertility and recurrent pregnancy loss as defined by the Practice Committee of the American Society for Reproductive Medicine. It replaces the document, "Definitions of Infertility and Recurrent Pregnancy Loss: a Committee Opinion," last published in 2013 (Fertil Steril 2013;99:63). (Fertil Steril® 2020;113:533–5. ©2019 by American Society for Reproductive Medicine.)
El resumen está disponible en Español al final del artículo.

Discuss: You can discuss this article with its authors and other readers at <https://www.fertsterdialog.com/users/16110-fertility-and-sterility/posts/56482-29354>

Infertility is categorized as a disease by the World Health Organization, a designation supported by numerous professional associations including the American Medical Association, the European Society for Human Reproduction and Embryology, the International Committee for Monitoring Assisted Reproductive Technologies (ICMART) and the American Society for Reproductive Medicine (1–4).

Infertility is a disease* historically defined by the failure to achieve a successful pregnancy after 12 months or more of regular, unprotected sexual intercourse or due to an impairment of a person's capacity to reproduce either as an individual or with her/his partner.

Infertility is a disease which generates disability as an impairment of function. Diagnostic testing for infertility should be initiated without delay upon presentation in any patient with a medical history, sexual or reproductive history, advanced age or physical findings that suggest the possibility of impaired reproductive function. In the absence of exigent history or physical findings, evaluation should, and

treatment may be, initiated at 12 months in women under 35 years of age and at 6 months in women age 35 or older. In women over 40 more immediate evaluation and treatment may be warranted (2).

Donor Insemination is the process of placing laboratory-processed sperm into the reproductive tract of a woman from a man who is not her intimate sexual partner for the purpose of initiating a pregnancy (2). Cycle fecundity is significantly lower when donor insemination is performed using cryopreserved donor sperm when compared to use of fresh sperm (5). In individuals or couples using cryopreserved donor sperm who fail to achieve pregnancy consideration should be given to performing an evaluation and initiating treatment sooner than 12 months for women under 35 years of age and 6 months for women age 35 or older.

Recurrent pregnancy loss is a disease distinct from infertility, defined by the spontaneous loss of two or more pregnancies. With disease being defined per *Dorland's Illustrated Medical Dictionary* (29th

ed) as, "any deviation from or interruption of the normal structure or function of any part, organ, or system of the body as manifested by characteristic symptoms and signs; the etiology, pathology, and prognosis may be known or unknown" (6). Each pregnancy loss merits careful review to determine whether specific evaluation of the woman or couple may be appropriate (2).

Acknowledgments: This report was developed under the direction of the Practice Committee of the American Society for Reproductive Medicine as a service to its members and other practicing clinicians. Although this document reflects appropriate management of a problem encountered in the practice of reproductive medicine, it is not intended to be the only approved standard of practice or to dictate an exclusive course of treatment. Other plans of management may be appropriate, taking into account the needs of the individual patient, available resources, and institutional or clinical practice limitations. The Practice Committee and the Board of Directors of the American Society for Reproductive Medicine have approved this report.

This document was reviewed by ASRM members and their input was

Received November 19, 2019; accepted November 20, 2019.

Correspondence: Practice Committee, American Society for Reproductive Medicine, 1209 Montgomery Highway, Birmingham, Alabama 35216 (E-mail: asrm@asrm.org).

Fertility and Sterility® Vol. 113, No. 3, March 2020 0015-0282/\$36.00

Copyright ©2019 American Society for Reproductive Medicine, Published by Elsevier Inc.

<https://doi.org/10.1016/j.fertnstert.2019.11.025>

ASRM PAGES

considered in the preparation of the final document. The following members of the ASRM Practice Committee participated in the development of this document. All Committee members disclosed commercial and financial relationships with manufacturers or distributors of goods or services used to treat patients. Members of the Committee who were found to have conflicts of interest based on the relationships disclosed did not participate in the discussion or development of this document.

Alan Penzias, M.D.; Kristin Bendikson, M.D.; Tommaso Falcone, M.D.; Karl Hansen, M.D., Ph.D.; Micah Hill, D.O.; William Hurd, M.D., M.P.H.; Sangita Jindal, Ph.D.; Suleena Kalra, M.D., M.S.C.E.; Jennifer Mersereau, M.D.; Catherine Racowsky, Ph.D.; Robert Rebar, M.D.; Richard Reindollar, M.D.; Anne Steiner, M.D., M.P.H.; Dale Stovall, M.D.; Cigdem Tanrikut, M.D.

REFERENCES

1. World Health Organization. Infertility definitions and terminology. Accessible at: <http://www.who.int/reproductivehealth/topics/infertility/definitions/en/>. Accessed November 16, 2018.
2. Zegers-Hochschild F, Adamson GD, Dyer S, Racowsky C, de Mouzon J, Sokol R, et al. The International Glossary on Infertility and Fertility Care, 2017. *Fertil Steril* 2017;108:393–406.
3. European Society of Human Reproduction and Embryology. ESHRE: A policy audit on fertility: Analysis of 9 EU countries; March 2017. Available at: <https://www.eshre.eu/Press-Room/Resources>. Accessed February 13, 2020.
4. American Medical Association. AMA backs global health experts in calling infertility a disease. Accessible at: <https://wire.ama-assn.org/ama-news/ama-backs-global-health-experts-calling-infertility-disease>. Accessed November 16, 2018.
5. Subak LL, Adamson GD, Boltz NL. Therapeutic donor insemination: a prospective randomized trial of fresh versus frozen sperm. *Am J Obstet Gynecol* 1992; 166:1597–606.
6. Dorland's Illustrated Medical Dictionary. 29th Edition. Philadelphia: Saunders; 2000.

Definiciones de infertilidad y pérdida recurrente del embarazo: una opinión del comité

Este documento contiene las definiciones de infertilidad y pérdida recurrente de embarazo según lo definido por el Comité de Práctica de la Sociedad Americana de Medicina Reproductiva. Reemplaza el documento, "Definiciones de Infertilidad y Pérdida Recurrente de Embarazo: una opinión del Comité," publicado por última vez en 2013.